

Petition: holiday lets and business rates

Y Pwyllgor Deisebau | 10 Hydref 2022
Petitions Committee | 10 October 2022

Reference: SR22/3596-9

Petition Number: P-06-1289

Petition title: Agree 105 day occupancy, not 182 days, to distinguish holiday let businesses from second homes.

Text of petition: As part of its tax policy to limit the number of second homes, Welsh Government wishes to better distinguish between legitimate furnished holiday lets and second homes. The draft Order, despite contrary advice from its own consultation, raises the level of occupancy required for business status from 70 to 182. This is unachievable for most FHLs, which will either close or be reclassified as second homes as a result. We propose a threshold of 105 days, a 50% rise, in line with HMRC definitions.

Wales Tourism Alliance, UK Hospitality Cymru and the Professional Association of Self Caterers have gathered evidence from c.1500 small Welsh businesses to show the damaging unintended consequences to Welsh livelihoods and communities of a 182 day threshold. It indicates that it will not achieve its policy intention of limiting second homes, but that it will reduce the number of local Welsh businesses. The report and supporting body of evidence supporting this petition can be found at https://www.pascuk.co.uk/wp-content/uploads/2022/04/UKH.WTA_PASC-BoE-1500-080422.docx. The draft Order is the Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2022



1. Background

The *Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022* (the Order) was laid before the Senedd on 24 May 2022. It came into force on 14 June 2022 and will have practical effect from 1 April 2023.

The Order amends section 66 of the *Local Government Finance Act 1988 (the 1988 Act)*, which defines domestic property for the purposes of Part 3 (non-domestic rating) of that Act. Section 66(2BB) of the 1988 Act sets out when buildings, or self-contained parts of buildings, that are let commercially for short-periods as self-catering accommodation are not to be considered domestic property.

The Order increases the number of days that a property must have been let to be classified as non-domestic from at least 70 days to at least 182 days in the 12 months prior to assessment. The Order also increases the number of days a property must have been made available for letting (in the previous year) and intended to be available for letting (in the following year) from 140 days or more to 252 days or more. Self-catering properties that do not meet the new criteria will be classified as domestic and will be liable for council tax, including any applicable premium. The Order contains transitional provisions so any property assessed prior to 1 April 2023 will be subject to the existing criteria.

2. Welsh Government action

Changing the definition of domestic property is part of a wider series of legislative and policy changes relating to the impact of second homes and short-term lettings that have been made since the start of the Sixth Senedd. The Welsh Government's **three-pronged approach** to address the impact of second homes focuses on **support** for local people; the **regulatory framework** (including the planning system); and also ensuring property owners make a **fairer contribution** through local and national taxation systems. Additionally, a **Welsh Language Communities Housing Plan** has been consulted on in order to support and protect Welsh-speaking communities.

In its response to the [consultation](#) on the changes to the definition of domestic property, the Welsh Government said:

The Welsh Government recognises the differing views of stakeholders and remains of the view that to operate as non-domestic, self-catering properties shall be required to be used for business purposes for the majority of the year.

3. Welsh Parliament action

On [6 July 2022](#), the Senedd debated a motion tabled in the name of Tom Giffard MS (Conservative) to annul the *Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022*. In the debate, Mr Giffard said the increases in the thresholds would “...have a hugely damaging impact on the businesses being able to operate within Wales and damage our economy, with many businesses that will simply just be forced to close.” He also highlighted concerns about the changes from within the sector.

For Plaid, Mabon ap Gwynfor MS said:

...we shouldn't look at the 182-day policy in isolation; this policy of 182 days is part of a broader package—in this case specifically, the announcement on Monday on the establishment of a new statutory licensing system for holiday lets.

Responding for the Welsh Government, Minister for Finance and Local Government Rebecca Evans MS said that:

I do recognise that the stronger criteria might be challenging for some operators, but it's important to recognise that there is evidence that average occupancy of self-catering properties exceeded 50 per cent over the three years prior to the pandemic. So, many operators in all parts of Wales are already meeting the new criteria. And I think it is reasonable to expect businesses to adopt an operating model that maximises the use of their property and the benefit that it brings to local communities.

The motion to annul the Order was [rejected](#) by 35 votes to 14.

In June 2022, the Senedd's Local Government and Housing Committee published a series of recommendations following its [inquiry into second homes](#). The Committee noted that the increased letting requirements for self-catering

accommodation go further than many of the respondents to the Welsh Government's own consultation suggested.

Another petition, *Allow exemptions to the 182-day occupancy rule to reduce harm to real Welsh self-catering businesses*, is collecting signatures until 28 December 2022.

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.